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EXAMINER	
PATEL, HARESH N	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/589,799
Filing Date: June 08, 2000
Appellant(s): BAWEJA ET AL.

Mr. J. B. Kraft
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/8/2005 appealing from the Office action mailed 11/19/2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 12/10/2004 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or

acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because the summary of the claimed subject matter, page 3, line 2- page 4, line 5, of the appeal brief, dated 8/8/2005, does not reflect the claimed subject matter of the independent claims 1, 7, and 12 along with dependent claims 3-6, 9-11, 14-17 (please refer to claims on appeal, appendix, pages 11-13, of the appeal brief, dated 8/8/2005).

The summary of the claimed subject matter, page 3, lines 2- 27, of the appeal brief, dated 8/8/2005, states the following (note: the examiner has underlined applicant's concerned subject matter, which is not what the claimed subject matter of the claims reflect):

The present invention is directed to dynamic workload distribution in a message driven transaction environment. In such a message driven transaction environment, a user initiated transaction is allocated to each of a set of messages distributed for performance. In the message driven transaction environment of the present invention, all of the protocols in the distribution and message allocation needed to complete user input transaction requests are invisible or transparent to the user including workload allocation and balancing via message queues. However, transparentness of the workload balancing causes operation problems to workload balancing system administrators in the case where messages are delayed or even lost in distribution and allocation.

The present invention, as defined in independent claims 1, 7, and 12, provides a user interactive display means for monitoring the allocation and distribution of the transaction messages at all levels of the distribution hierarchy, and storing the plurality of these allocated messages from the distribution in a queue (page 7, lines 22- 23) at the server (server 51, Fig. 1, page 7, lines 18-22) which controls the distribution. This queue may be interactively displayed by the user (on display terminal 50, Fig 1) to thereby display (page 10, lines 1-20, and message queue 80 of Figs.3-5) the queue of allocated distributed messages the computer systems (delegated computers 89 in Figs. 3-5) associated with the allocated messages.

Note: Since, dependent claims 3-6, 9-11, 14-17, include the claimed subject matter of their respective independent claims; the summary of claimed subject matter contained in the appeal brief for the dependent claims is also deficient.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Grouping of Claims

The rejection of claims 1 & 3-6, 7 & 9-11, 12 & 14-17, stand or fall together because appellant's brief does not include a statement that this grouping of claims do not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(9) Grounds of Rejection

5,778,224	Tobe et al.	Jul. 7, 1998
6,578,159	Kitagawa et al.	Jun. 10, 2003
5,799,173	Gossler et al.	Aug. 25, 1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Amended claims 1, 3-7, 9-12, 14-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobe et al. 5,778,224 (Hereinafter Tobe) in view of Kitagawa et. al. 6,578,159 (Hereafter Kitagawa) and in further view of "Official Notice" (For example, Gossler et. al. 6,578,159 (Hereafter Gossler)).

As per claims 1, 3, 7, 9, 12, 14, Tobe teaches a system, a method and a computer readable medium to perform the following:

a workload balancing system for distributing data processing transactions (e.g. executing a plurality of transactions and a distributed processing system, abstract) into a plurality of messages (e.g., distributed messages among the computers, abstract) and for dynamically allocating each of said messages to different computer systems for performance (e.g., distribution of transactions to all the computers and the execution of transactions based on distribution arrangement, abstract) comprising,

means for requesting the performance of a data processing transaction (e.g., management node receiving accumulation completion notifications from all nodes and establishing synchronization with all the nodes, figure 5),

a server computer for said distributing and allocating said transaction to different computer systems (e.g., distribution node distributing transactions to the computers for handling the transactions, abstract).

user interactive display means for displaying transactions and associated computer systems (e.g., screens displaying information related to each job assigned to the associated processing node, figures 2, 3, 4, screens of figs. 7-9, col., 3, lines 56 – 64, col., 4, line 54 – col., 5, line 16, col., 7, line 45 – col., 8, line 34).

However, Tobe does not specifically mention about splitting a transaction into a plurality of messages.

Kitagawa teaches splitting a transaction into a plurality of messages (e.g., splitting a transaction into more than one transactions, figure 5A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Tobe with the teachings of Kitagawa in order to facilitate

creation of multiple messages for a single transaction because multiple messages created from a single transaction can be individually processed in parallel by the assigned computer system. The parallel execution of the parts of the transaction by different computer systems would help enhance quick processing a transaction rather than a transaction processed by a single computer system.

Tobe and Kitagawa do not specifically mention about using a queue for storing messages before being displayed.

"Official Notice" is taken that both the concept and advantages of providing a server queue for storing the messages before being displayed and each of different computer systems having an associated queue for storing messages allocated to each respective computer system, is well known and expected in the art. For example, Gossler teaches usage of these limitations, abstract, col., 1, lines 35 – 38, col., 2, lines 37 – 45, 51 – 63, col., 3, lines 22 – 58, col., 4, lines 1-3, 40-43.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a server queue for storing messages before being displayed and each of different computer systems having an associated queue for storing messages allocated to each respective computer system, with the teachings of Tobe and Kitagawa in order to facilitate sequencing the messages using a queue to retain the messages as they are received and before they are displayed because the well-known concept of using queues in the system, for example, Gossler et. al. 6,578,159 (Hereafter Gossler) teaches each service unit comprising a queue for receiving and queuing the incoming message, e.g., abstract, would help enhance computer

modules utilize necessary number of queues for storing the messages, that are directed the respective computer module.

As per claims 6 and 17, Tobe teaches the following:

an interactive display computer including said means for requesting the performance of a data processing transaction and user interactive display means for displaying said allocated messages and associated computer systems (e.g., screen display requesting information to be displayed for a user and displaying job assigned to each associated node for processing, figures 2, 3, 4, 7 and 8).

As per claims 4, 10 and 15, Tobe and Kitagawa discloses the claimed limitations rejected under claims 3, 9, and 14. However, Tobe and Kitagawa do not specifically mention about a different computer system having means for reallocating to other computer systems, messages (another) initially allocated to said one computer system.

"Official Notice" is taken that both the concept and advantages of providing a different computer system having means for reallocating to other computer systems, messages (another) initially allocated to the one computer system, is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a different computer system having means for reallocating to other computer systems, with the teachings of Tobe and Kitagawa in order to facilitate reallocating of the transaction message to another computer system for processing and messages initially allocated to said one computer system because this well-known concept is useful to handle

workload and is available to utilize by the systems that handle workload, for example, Gossler teaches, assigned computer system requesting another computer system to process the assigned transaction messages to process during workload conditions, col., 2, line 50 - col., 3, line 49. When the assigned computer system has several messages to be processed, it will pass the received transaction to the other computer system, hence the transaction messages processing will be handled quicker.

As per claims 5, 11, 16, Tobe and Kitagawa discloses the claimed limitations rejected under claims 4, 10, and 15. However, Tobe and Kitagawa do not specifically mention about displaying said reallocated messages. "Official Notice" is taken that both the concept and advantages of providing display of reallocated messages is well known and expected in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include display of reallocated messages with the teachings of Tobe and Kitagawa in order to facilitate a user to view the reallocated messages assigned to the computer system because after reallocation, the user interface would help display information of the updated computer system, which is assigned to process the reallocated transaction message.

Note: Examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner.

(11) Response to Arguments

Applicant argues (1), "In combining the teachings of references, Tobe, Kitagawa and Official Notice-example-prior-art-Gossler the Examiner has combined the teachings of these arts not based upon any suggestion in these references but based upon applicant's teachings and are improperly combined".

The examiner respectfully disagrees in response to applicant's arguments. Contrary to applicant's assertions, the limitations relied upon Kitagawa reference, i.e., splitting a transaction into a plurality of messages, is not only taught by Kitagawa (e.g., figure 5A and its related description), but Kitagawa also discloses at least one benefit of using a transaction that is splitted into a plurality of messages. For example, multiple messages created from a single transaction can be individually processed in parallel by the assigned computer system (e.g., figure 5A and its related description). The parallel execution of the parts of the transaction by different computer systems would help enhance quick processing a transaction rather than a transaction processed by a single computer system, e.g., col., 1, lines 48 - 64. Contrary to applicant's assertions, the limitations, relied upon well-known references (for example, Official Notice-example-prior-art-Gossler), i.e., using a queue for storing messages before being displayed (sent to output) is not only taught by Official Notice-example-prior-art-Gossler reference (e.g., figure 5A and its related description), but Official Notice-example-prior-art-Gossler also discloses at least one

benefit of using a queue for storing messages before being displayed (sent to output). For example, Official Notice-example-prior-art-Gossler discloses that each service unit comprising usage of a queue for receiving and queuing the incoming message, e.g., abstract. The concept of using queues to store (queue) information would help enhance computer modules utilize necessary number of queues for storing the messages, that are directed the respective computer module (e.g., col., 1, lines 35 – 38, col., 2, lines 37 – 45, 51 – 63, col., 3, lines 22 – 58). The stored information, i.e., messages, would be used for processing by the system (e.g., col., 1, lines 35 – 38, col., 2, lines 37 – 45, 51 – 63, col., 3, lines 22 – 58). It is well established that a conclusion of obviousness may be made based on a combination of references based on a reason, suggestion or motivation to lead an inventor to combine those references. *In re Pro-Mold and Tool Co. v. Great Lakes Plastic Inc.*, 37 USPQ2d 1626, 1629 (Fed. Cir. 1996). The claim is open-ended (comprising). Also, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinally skill in the art. *In re Keller*, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); *In re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991).

Further, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge

gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Please note above for proper obviousness not based on hingsight, the combined teaching of cited references, Tobe, Kitagawa and Official Notice-example-prior-art-Gossler teach a method, a computer program having program code included on a computer readable medium, and a workload balancing system, all what the applicant is trying to accomplish, as per the claimed invention, see claims on appeal, appendix, pages 11-13. Therefore, the rejection is maintained.

Applicant argues (2), "even if teachings of the references (Tobe, Kitagawa and Official Notice-example-prior-art-Gossler) could be combined, the references do not disclose, teach, or suggest all of the features of the independent claims (1, 7 and 12), in the dynamic workload distribution in a message driven transaction environment of the invention, each user initiated transaction is allocated to each of a set of messages which are distributed for performance. However, if messages are delayed or even lost in distribution and allocation, there currently is no effective way of tracking lost or delayed messages. The present invention provides a user interactive display means for monitoring the allocation and distribution of the transaction messages at all levels of the distribution hierarchy, and storing the plurality of these allocated messages from the distribution in a queue at the server which controls the distribution. This queue may be interactively displayed by the user to display the queue of allocated distributed messages and the computer systems associated with the allocated messages".

The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "in the dynamic workload distribution in a

message driven transaction environment of the invention, each user initiated transaction is allocated to each of a set of messages which are distributed for performance. However, if messages are delayed or even lost in distribution and allocation, there currently is no effective way of tracking lost or delayed messages. The present invention provides a user interactive display means for monitoring the allocation and distribution of the transaction messages at all levels of the distribution hierarchy, and storing the plurality of these allocated messages from the distribution in a queue at the server which controls the distribution. This queue may be interactively displayed by the user to display the queue of allocated distributed messages and the computer systems associated with the allocated messages", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). What is claimed is, in claim 1 which is related to the above arguments, "a server queue associated with said server computer for storing the plurality of messages from the distributed transaction, and user interactive display means for displaying said queue of allocated messages and associated computer systems". Note: the claimed invention clearly states that a server queue is associated (just related) with the server and not the queue at the server. The usage of "for" after server computer, implies that the server computer is not limited to even "storing the plurality of messages from the distributed transaction, and user interactive display means for displaying said queue of allocated messages and associated computer systems". The allocated messages that are used for displaying (without "said" or "the") imply that these allocated messages (another, not necessarily previously defined)

are not the same messages that are allocated to different computer systems or distributed in the claimed invention). The computer systems (without "said" or "the") imply that these computer systems (another, not necessarily the previously defined different computer systems) are not same as the different computer systems of the claimed invention. Tobe discloses user interactive display means for displaying transactions and associated computer systems (e.g., screens displaying information related to each job assigned to the associated processing node, concept of displaying information from queues containing information for workload balancing, figures 2, 3, 4, screens of figs. 7-9, col., 3, lines 56 – 64, col., 4, line 54 – col., 5, line 16, col., 7, line 45 – col., 8, line 34), a server computer for said distributing and allocating said transaction to different computer systems (e.g., distribution node distributing transactions to the computers for handling the transactions, abstract). Kitagawa teaches splitting a transaction into a plurality of messages (e.g., splitting a transaction into more than one transactions, figure 5A). Official Notice-example-prior-art-Gossler teaches a server queue (all information contained in queues, col., 2, lines 55 – 65) for storing messages (e.g., figure 5A and its related description) before being displayed (sent to output, since once, the messages information is displayed, there is no point of getting the displayed (output) information to be stored in the queues. Hence, the queue would help only before the message information is displayed (outputted)) and each of different computer systems having an associated queue (abstract, col., 1, lines 35 – 38, col., 2, lines 37 – 45, 51 – 63, col., 3, lines 22 – 58, col., 4, lines 1-3, 40-43) for storing messages allocated to each respective computer system (abstract, col., 1, lines 35 – 38, col., 2, lines 37 – 45, 51 – 63, col., 3, lines 22 – 58, col., 4, lines 1-3, 40-43). The combined teaching of cited references, Tobe, Kitagawa and Official Notice-example-prior-art-Gossler teach a method, a computer program

having program code included on a computer readable medium, and a workload balancing system, all what the applicant is trying to accomplish, as per the claimed invention, see claims on appeal, appendix, pages 11-13. The claim is open-ended (comprising). Also, lines 19-23, page 14, of the specification, clearly states, "Although certain preferred embodiments have been shown and described, it will be understood that many changes and modifications may be made therein without departing from the scope and intent of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (3), "the reference Tobe do not disclose, teach, or suggest a workload distribution environment involving the execution of sets of transactions", and states, "applicants will concede that Kitagawa patent could be said to suggest that in the workload distribution, transactions may be broken into a plurality of messages, Applicants have already conceded this to be known in the background of their invention in the present specification".

Examiner agrees with the fact, i.e., applicant's assertion that Kitagawa patent suggest that in the workload distribution, transactions may be broken into a plurality of messages, and the applicants have already conceded this to be known in the background of their invention in the present specification. However, the examiner respectfully disagrees in response to applicant's arguments.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "a workload distribution environment involving the execution of sets of transactions", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). What is claimed is, a preamble, stating, a workload balancing system for distributing data processing transactions (e.g. executing a plurality of transactions and a distributed processing system, abstract) into a plurality of messages and for dynamically allocating each of said messages to different computer systems for performance. Tobe discloses a workload balancing system for distributing data processing transactions (e.g. executing a plurality of transactions and a distributed processing system, abstract) into a plurality of messages (e.g., distributed messages among the computers, abstract) and for dynamically allocating each of said messages to different computer systems for performance (e.g., distribution of transactions to all the computers and the execution of transactions based on distribution arrangement, abstract). The claim is open-ended (comprising). Also, lines 19-23, page 14, of the specification, clearly states, "Although certain preferred embodiments have been shown and described, it will be understood that many changes and modifications may be made therein without departing from the scope and intent of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (4), "the combined teachings of the references cited including Tobe do not disclose, teach, or suggest applicant's recognized problem of the difficulty of tracking allocated messages in workload distribution systems which are lost or delayed, and storing all messages distributed and allocated by the server in a server queue which the user is enabled to

display, a user is enabled to display on his computer display, via the queues, the message allocations of the any transaction, distribution arrangements that are not predefined, viewing of a message allocation queue" and states, "applicants submit that queues in general are known in the art".

Examiner agrees with the fact, i.e., applicant's assertion that queues in general including queues to queue information and store transaction and messages information for processing are known in the art. However, the examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "the difficulty of tracking allocated messages in workload distribution systems which are lost or delayed, and storing all messages distributed and allocated by the server in a server queue which the user is enabled to display, a user is enabled to display on his computer display, via the queues, the message allocations of the any transaction, distribution arrangements that are not predefined, viewing of a message allocation queue", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). For example, the claimed subject matter of claims are not limited to neither predefined nor not-predefined arrangements. What is claimed is, "an interactive display computer including said means for requesting the performance of a data processing transaction and user interactive display means for displaying said allocated messages and associated computer systems (not necessarily the previously defined computer systems)". Tobe discloses

an interactive display computer including said means for requesting the performance of a data processing transaction (e.g., load characteristics, etc., figures 7 and 8) and user interactive display means (e.g., col., 7, line 46 – col., 8, line 14) for displaying said allocated messages and associated computer systems (e.g., usage of screens and screen display and related environment entities requesting information to be displayed for a user and displaying job assigned to each associated node for processing, figures 2, 3, 4, 7 and 8). The claim is open-ended (comprising). Also, lines 19-23, page 14, of the specification, clearly states, "Although certain preferred embodiments have been shown and described, it will be understood that many changes and modifications may be made therein without departing from the scope and intent of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (5), "the combined teachings of the references, Tobe, Kitagawa and Official Notice-example-prior-art-Gossler do not disclose, teach, or suggest reallocation of messages in the allocation queues, the user interactively access and display the allocation of the message queue at the server which distributes transactions and allocates their messages, workload balancing in the distribution of data processing transactions wherein the messages into which the transactions are allocated are in turn stored in displayable queues assigned to the computer systems and servers to which the messages were allocated. From the displayable queues, the messages are allocated and reallocated to other computer systems by interactive users using the display of the allocated and the reallocated message queues", and states, "applicants do not claim to have invented reallocation".

Examiner agrees with the fact, i.e., applicant's assertion that the concept of reallocation is known in the art. However, the examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "reallocation of messages in the allocation queues, the user interactively access and display the allocation of the message queue at the server which distributes transactions and allocates their messages, workload balancing in the distribution of data processing transactions wherein the messages into which the transactions are allocated are in turn stored in displayable queues assigned to the computer systems and servers to which the messages were allocated. From the displayable queues, the messages are allocated and reallocated to other computer systems by interactive users using the display of the allocated and the reallocated message queues", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). What is claimed is, "means for reallocating to other computer systems, messages initially allocated to said one computer system, means for displaying said reallocated messages and computer systems to which said messages are reallocated", and regarding the limitations rejected under "Official Notice", both in non-final office action dated 5/4/2004 and final office action dated 11/19/2004, the applicant did not traverse the examiner's assertion of limitations rejected under "Official Notice", see applicants arguments, dated 7/31/2004 and 12/10/2004, hence the limitations rejected under "Official Notice" is considered to applicant's admitted prior art, please refer MPEP 2144.03. Further,

Tobe teaches a workload balancing system for distributing data processing transactions (e.g. executing a plurality of transactions and a distributed processing system, abstract) into a plurality of messages (e.g., distributed messages among the computers, abstract) and for dynamically allocating each of said messages to different computer systems for performance (e.g., distribution of transactions to all the computers and the execution of transactions based on distribution arrangement, abstract), means for requesting the performance of a data processing transaction (e.g., management node receiving accumulation completion notifications from all nodes and establishing synchronization with all the nodes, figure 5), a server computer for said distributing and allocating said transaction to different computer systems (e.g., distribution node distributing transactions to the computers for handling the transactions, abstract), user interactive display means for displaying transactions and associated computer systems (e.g., screens displaying information related to each job assigned to the associated processing node, figures 2, 3, 4, screens of figs. 7-9, col., 3, lines 56 – 64, col., 4, line 54 – col., 5, line 16, col., 7, line 45 – col., 8, line 34), means for displaying messages and computer systems to which said messages are reallocated (e.g., screens displaying information related to each job assigned to the associated processing node, figures 2, 3, 4, screens of figs. 7-9, col., 3, lines 56 – 64, col., 4, line 54 – col., 5, line 16, col., 7, line 45 – col., 8, line 34). Kitagawa teaches splitting a transaction into a plurality of messages (e.g., splitting a transaction into more than one transactions, figure 5A). Official Notice-example-prior-art-Gossler teaches, reallocating to other computer systems, messages initially allocated to said one computer system (e.g., assigned computer system requesting another computer system to process the assigned transaction messages to process during workload conditions, col., 2, line 50 - col., 3, line 49), displaying (e.g., usage of I/O

operations, user interface, col., 1, lines 13 – 24, col., 2, lines 4 – 19) said reallocated messages (e.g., assigned computer system requesting another computer system to process the assigned transaction messages to process during workload conditions, col., 2, line 50 - col., 3, line 49). When the assigned computer system has several messages to be processed, it will pass the received transaction to the other computer system, hence the transaction messages processing will be handled quicker. The claim is open-ended (comprising). Also, lines 19-23, page 14, of the specification, clearly states, "Although certain preferred embodiments have been shown and described, it will be understood that many changes and modifications may be made therein without departing from the scope and intent of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

(12) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Haresh Patel

Examiner

Art Unit 2154

October 29, 2005

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